

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

MICKEY M. SELF,
Plaintiff,

v.

ROSAURA RODRIGUEZ,
Defendant.

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CIVIL ACTION NO. H-04-2896

MEMORANDUM OPINION AND ORDER

Plaintiff Mickey M. Self, a state inmate proceeding *pro se* and *in forma pauperis*, filed this civil rights action under 42 U.S.C. § 1983 complaining of retaliation for filing a prison grievance. On June 8, 2005, the Court ordered service of process on defendant Rosaura Rodriguez. (Docket Entry No. 14.) In the order, the Court ordered defendant to file a dispositive motion, and ordered plaintiff to respond to the dispositive motion within thirty days of the date reflected on the certificate of service. Plaintiff was warned that his failure to timely respond to the motion may result in dismissal of the lawsuit for want of prosecution under Rule 41(b) of the Federal Rules of Civil Procedure. (*Id.*, p. 2.)


On May 18, 2006, defendant filed a motion for summary judgment. (Docket Entry No. 37.) The certificate of service reflects that plaintiff was served with a copy of the motion on May 18, 2006. (*Id.*, p. 9.) On June 16, 2006, plaintiff requested an extension of time until June 28, 2006 to file a response. The motion was granted. (Docket Entry No. 40.) To-date, and despite expiration of a reasonable period of time, plaintiff has not responded to the motion for summary judgment.

The Court finds that plaintiff has failed to comply with the Court's order to respond to the motion for summary judgment. The Court further finds that plaintiff's failure to respond reflects his lack of due diligence in prosecuting his case. *See Martinez v. Johnson*, 104 F.3d 769 (5th Cir. 1997) (affirming dismissal for want of prosecution based on inmate's failure to respond to a summary judgment motion as ordered by the district court).

Accordingly, this case is **DISMISSED WITHOUT PREJUDICE** for want of prosecution pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. Any and all pending motions are **DENIED AS MOOT**.

The Clerk will provide a copy of this order to the parties.

Signed at Houston, Texas, on this the 14th day of August, 2006.


KENT P. ELLISON
UNITED STATES DISTRICT JUDGE